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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,804	08/18/2003	Douglas M. Stam	R252	1803

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EXAMINER

FLYNN, AMANDA R

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/604,804

Applicant(s)

STAM, DOUGLAS M.

Examiner

Amanda R. Flynn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/18/03 & 2/17/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. The examiner acknowledges Applicant's claim of priority to provisional application number 60/411,173 filed on 17 September 2003.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claim 2 must be shown or the feature(s) canceled from the claim(s) (specifically, the foam pad disposed within the envelope must be shown; the drawings show a foam pad 4, disposed on top of the envelope 8). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claims 1, 3 and 7 are objected to because of the following informalities:

In claim 1, at line 4, it appears that the phrase "therein of" should be replaced with --on--, since the padded member is arranged on (not in) the arm of the wearer.

In claim 3, the meaning of the term "capulet" remains unknown, even after a thorough reading of the specification and a dictionary and Internet search performed by the examiner. There is no known meaning of the term "capulet" in the relevant art. Therefore, the limitation in the claim is being examined as if it read: "for attaching the arm pad to a portion ~~capulet~~ of the shoulder pad of the wearer" since no further structure or function is known in relation to the term "capulet".

In claim 7, the phrase "the foam pad" lacks proper antecedent basis in the claim. If the dependency of claim 7 was amended from "3" to --2--, this objection would be overcome.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 4,654,893 to Meyers et al.

Meyers et al. disclose a shoulder pad accessory arm pad, comprising: an elongated padded member (80) defining first and second opposite ends, the padded member being

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constructed and arranged for disposal on an arm of a wearer, to protect the arm from injury; means for attaching (83) the first end of the padded member to a shoulder pad (26) of the wearer; and means for attaching (88) the second end of the padded member to the arm of the wearer, to secure the padded member to the arm of the wearer. The padded member comprises a foam pad (86) disposed within and attached to a peripheral elastic envelope (glaze being a thin, water impermeable and somewhat 'elastic' surface). As seen in Figure 2, for example, the padded member has first and second open ends, the first end having first attachment means (83) for attaching the arm pad to a portion of the shoulder pad, and the second end has second attachment means (88) for attaching the arm pad to the arm of the wearer. The second attachment means (88) comprise a strap with hook-and-loop fasteners along its entirety.

6. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 4,467,475 to Gregory et al.

Gregory et al. disclose a shoulder pad accessory arm pad, comprising: an elongated padded member (3000) defining first and second opposite ends, the padded member being constructed and arranged for disposal on an arm of a wearer, to protect the arm from injury; means for attaching (3100) the first end of the padded member to a shoulder pad (2000) of the wearer; and means for attaching (3020) the second end of the padded member to the arm of the wearer, to secure the padded member to the arm of the wearer. As seen in Figures 5 and 11, for example, the padded member has first and second open ends, the first end having first attachment means (3100) for attaching the arm pad to a portion of the shoulder pad, and the second end has second attachment means (3020) for attaching the arm pad to the arm of the wearer. The first (3100) and second (3020) attachment means comprise elastic bands.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyers et al. in view of U.S. Patent Number 5,911,197 to Schmid.

Meyers et al. disclose the previously described shoulder pad accessory arm pad, comprising a padded member for disposal on an arm of a wearer, means for attaching the first end of the padded member to a shoulder pad of the wearer, and means for attaching the second end of the padded member to the arm of the wearer. Meyers et al. specify that the means for attaching the second end of the padded member to the arm of the wearer be a strap having hook-and-loop fasteners along its entirety, but do not specify that the strap having the hook-and-loop fasteners be elastic.

Schmid discloses an arm pad accessory having a padded member (16) for disposal on a wearer's arm, with first and second ends. First attachment means (96) attach the padded member to a shoulder pad, while second attachment means (98) attach the padded member to the wearer's arm. Schmid discloses that the second attachment means may be elastic straps with hook-and-loop fasteners for improved mobility and comfort.

It would have been obvious to one skilled in the art at the time the invention was made to have provided the shoulder pad arm accessory disclosed by Meyers et al., wherein the padded

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member is attached to the wearer's arm by an elastic strap with hook-and-loop fasteners, as taught by Schmid, to provide improved mobility and comfort.

9. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyers et al. in view of Gregory et al.

Meyers et al. disclose the previously described shoulder pad accessory arm pad, comprising a padded member for disposal on an arm of a wearer, means for attaching the first end of the padded member to a shoulder pad of the wearer, and means for attaching the second end of the padded member to the arm of the wearer. Meyers et al. specify padded member have a foam pad disposed within the padded member. Meyers et al. do not specify that the foam pad have a thickness that increases continuously from the first end to the second end.

Gregory et al. disclose a shoulder pad accessory arm pad, having several padded members. Gregory et al. disclose that the padded member can have a variable thickness, increasing from the first end to the second end, to provide added rigidity and strength to the padded member.

It would have been obvious to one skilled in the art at the time the invention was made to have provided the shoulder pad accessory arm pad disclosed by Meyers et al., wherein the thickness of the padded member increases from the first end to the second end, as taught by Gregory et al., to improve rigidity and strength.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda R. Flynn whose telephone number is 703-306-4056. The examiner can normally be reached on Monday-Thursday, 8:30 - 6:00 and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

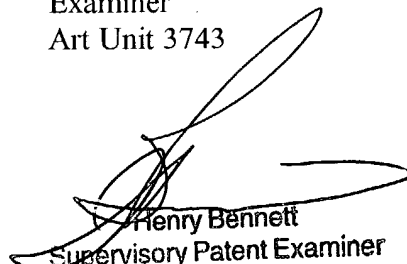


Amanda R. Flynn

Examiner

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arf



Henry Bennett  
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Group 3700